



**UNITED STATES DEPARTMENT OF COMMERCE  
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**6 JUN 2000**

Andrew G. Golian  
E.I. DuPont De Nemours and Company  
Legal Patent Record Center  
1007 Market Street  
Wilmington, Delaware 19898

In re Application of	:
BRENNAN et al.	:
Application No.: 09/155,842	:
PCT No.: PCT/GB97/00708	:
Int. Filing Date: 14 March 1997	:
Priority Date: 10 April 1996	:
Attorney Docket No.: CI5023A1	:
For: MULTILAYER CARD	:

DECISION ON PETITION  
TO WITHDRAW HOLDING  
OF ABANDONMENT

This is a decision on applicants' "REQUEST TO WITHDRAW HOLDING OF ABANDONMENT" which is being treated as a petition under 37 CFR 1.181 filed in the United States Patent and Trademark Office on 03 April 2000.

**BACKGROUND**

On 14 March 1997, applicants filed international application no. PCT/US96/15727 which claimed a priority date of 10 April 1996, and elected the United States. On 17 October 1997, a Demand was filed with the International Preliminary Examining Authority. As a result, the deadline for entry into the national stage in the United States expired 30 months from the priority date, on 10 October 1998.

On 06 October 1998, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia: the basic national fee; a copy of the international application; and an international preliminary examination report. An oath or declaration was not included.

On 22 February 1999, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventor and the \$130.00

surcharge for filing after the thirty-month period were required. The notification set a ONE (1) MONTH period for response.

On 14 January 2000, the United States Elected Office mailed a NOTIFICATION OF ABANDONMENT UNDER 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 22 February 1999 within the time period set therein.

On 12 April 2000, applicants filed present petition accompanied, inter alia, by: the declaration of Andrew G. Golian, Lisa S. Cipolla and Carol Reeder.

### DISCUSSION

With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Applicant's petition filed 12 April 2000 satisfies items (1) above.

Concerning item (2) above, the Declaration of Andrew G. Golian does not clearly state that a search of the file wrapper and docket records indicate that the Notification mailed 22 February 1999 was not received. In this regard, the statement, "I have reviewed the front of the file of Serial No. 09/155,842...", falls short of the statement required to satisfy item (2) above. Did Mr. Golian check inside of the file? Additionally, Mr. Golian statement is defective since the reply to the Notification of Missing Requirements was due 22 March 1999, not 22 April 1999, as stated in his declaration.

However, as to item (3) applicants have provided a copy of the docket record which purportedly shows where the paper would have been entered had it been received. The printout of the docket report for this specific attorney of record is not sufficient to establish that the Notification of Missing Requirements was not received and mis-docketed another attorney. Accordingly, applicant is required to provide docket records for 22 March 1999, indicating all applications for which a response was due on said date.

Thus, applicants have not provided the proper showing necessary to withdraw the holding of abandonment and the petition may not be properly granted.

**CONCLUSION**

The Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 has been considered, however, for the reasons indicated above, the petition stands **DISMISSED** without prejudice and the application remains **ABANDONED**.

If reconsideration of the merits of this petition is desired, a proper response must be filed within TWO (2) MONTH from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." No additional fee is required. Extensions of time under 37 CFR 1.136(a) are permitted.

Any renewed petition filed must include a proper reply. A proper reply must include a copy of the docket record for all communications received at practitioner's office having a due date of 01 June 1998.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



Boris Milef  
PCT Legal Examiner  
PCT Legal Office



Anthony Smith  
PCT Petitions Attorney  
PCT Legal Office  
Telephone 703-308-6314  
Fax: 703-308-6459